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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 08 APR 30 PM 12:02
SOUTHERN U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

'08 MJ 1354

UNITED STATES OF AMERICA,	)	Magistrate Docket No.
Plaintiff,	)	
v.	)	COMPLAINT FOR VIOLATION OF:
Misael MEDINA-Virgen,	)	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about **April 28, 2008** within the Southern District of California, defendant, **Misael MEDINA-Virgen,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **30th** DAY OF **APRIL 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Misael MEDINA-Virgen

PROBABLE CAUSE STATEMENT

On April 28, 2008, Border Patrol Agent J. Clare was performing linewatch duties in the Chula Vista Border Patrol Station's area of operations. At approximately 9:45 pm, Agent Clare responded to a seismic intrusion device in an area known as "Crack Draw." This area is located approximately four miles east of the Otay Mesa, California Port of Entry and north of the United States/Mexico International Boundary.

After a brief search of the area, Agent Clare found nine individuals walking north on a trail. As the individuals approached the Otay Mesa Truck Trail, Border Patrol Agent Noyes located the group walking north on the trail, using an infra red thermal camera. Agent Noyes then directed Border Patrol Agents Clare and R. Moore towards the group. The Agents approached the group and identified themselves as United States Border Patrol Agents. At this time, a subject later identified as the defendant **Misael MEDINA-Virgen**, ran from the group, and was shortly apprehended by Agent Clare. The remaining eight individuals were complied. The Agents then conducted an immigration inspection. All nine including the defendant, admitted to being citizens and nationals of Mexico without any immigration documents to enter or remain in the United States legally. All nine individuals were placed under arrest and transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **January 30, 2008** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.